

under an express promise that the identity of the source would be held in confidence or, prior to such date, under an implied promise to such effect; and

(e) Testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service and the Corporation determines, in its sole discretion, that disclosure of such materials would compromise the fairness of the testing or examination process.

PART 708—SUNSHINE REGULATIONS

Sec.

708.1 Purpose and applicability.

708.2 Open meeting policy.

708.3 Scheduling of a meeting.

708.4 Public announcement.

708.5 Closed meetings.

708.6 Records of closed meetings.

AUTHORITY: 5 U.S.C. 552b.

SOURCE: 42 FR 13110, Mar. 9, 1977, unless otherwise noted.

§ 708.1 Purpose and applicability.

The purpose of this part is to effectuate the provisions of the Government in the Sunshine Act. This part applies to the deliberations of a quorum of the Directors of the Corporation required to take action on behalf of the Corporation where such deliberations determine or result in the joint conduct or disposition of official Corporation business, but does not apply to deliberations to take action to open or close a meeting or to release or withhold information under § 708.5. Any deliberation to which this part applies is hereinafter in this part referred to as a meeting of the Board of Directors.

§ 708.2 Open meeting policy.

(a) It is the policy of the Corporation to provide the public with the fullest practicable information regarding the decisionmaking process of the Board of Directors of the Corporation while protecting the rights of individuals and the ability of the Corporation to carry out its responsibilities. In order to effect this policy, every meeting of the Board of Directors shall be open to public observation and will only be closed to public observation if justified under one of the provisions of § 708.5.

The public is invited to observe and listen to all meetings of the Board of Directors, or portions thereof, open to public observation, but may not participate or record any of the discussions by means of electronic or other devices or cameras. Documents being considered at meetings of the Board of Directors may be obtained subject to the procedures and exemptions set forth in part 706 of this chapter.

(b) Directors of the Corporation shall not jointly conduct or dispose of agency business other than in accordance with this part. This prohibition shall not prevent Directors from considering individually business that is circulated to them sequentially in writing.

(c) The Secretary of the Corporation shall be responsible for assuring that ample space, sufficient visibility, and adequate acoustics are provided for public observation of meetings of the Board of Directors.

§ 708.3 Scheduling of a meeting.

A decision to hold a meeting of the Board of Directors should be made as provided in the By-laws of the Corporation and at least eight days prior to the scheduled meeting date in order for the Secretary of the Corporation to give the public notice required by § 708.4. However in special cases, a majority of the Directors may decide to hold a meeting less than eight days prior to the scheduled meeting date if they determine by a recorded vote that Corporation business requires such meeting at such earlier date. After public announcement of a meeting of the Board of Directors under the provisions of § 708.4, the subject matter thereof, or the determination to open or close a meeting, or portion thereof, may only be changed if a majority of the Directors determines by a recorded vote that business so requires and that no earlier announcement of the change is possible.

§ 708.4 Public announcement.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 708.5, in the case of each meeting of the Board of Directors, the Secretary shall make public announcement at least one week before the meeting, of the time, place,

and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated by the Corporation to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the Directors determines by a recorded vote that Corporation business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(b) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Secretary publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Corporation to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this section only if (1) a majority of the Directors determines by a recorded vote that business so requires and that no earlier announcement of the change was possible, and (2) the Secretary publicly announces such change and the vote of each Director upon such change at the earliest practicable time.

(c) The *earliest practicable time*, as used in this subsection, means as soon as possible, which should in few, if any, instances be later than the commencement of the meeting or portion in question.

(d) The Secretary shall use reasonable means to assure that the public is fully informed of the public announcements required by this section. Such public announcements may be made by posting notices in the public areas of the Corporation's headquarters and mailing notices to the persons on a list maintained for those who want to receive such announcements.

(e) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding announcements, and the name and telephone number of the official designated by the Corpora-

tion to respond to requests for information about the meeting shall also be submitted by the Secretary for publication in the FEDERAL REGISTER.

§ 708.5 Closed meetings.

(a) Meetings of the Board of Directors will be closed to public observation where the Corporation properly determines, according to the procedures set forth in paragraph (c) of this section, that such portion or portions of the meeting or disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and are (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of an agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), *Provided*, That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement